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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Bjarne Schon

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MINNEAPOLIS, MN 55402-3244

EXAMINER

DANNEMAN, PAUL

ART UNIT

PAPER NUMBER

3627

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/675,591	Applicant(s) SCHON, BJARNE	
	Examiner PAUL DANNEMAN	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-22 and 24-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-22 and 24-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in reply to Applicant's response filed on 30 June 2008, to the first office action.
2. Claims 12, 23 and 40 are canceled.
3. Claims 1, 22, 24-28, 30-31, 33 and 36 are amended.
4. Pending claims 1-11, 13-22 and 24-39 have been examined in this response.

Response to Arguments

5. The objection to Claims 30-33 for lack of proper dependency is respectfully withdrawn as Applicant has amended the claims to correct the dependency.
6. Applicant's arguments with respect to claims 1-40 have been considered but are not persuasive as applicant has amended the independent claims and based on a new ground of rejection.

Specification

7. The amendment filed on 30 June 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "motorized" product moving machine.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
9. **Claims 1, 22, 24-25 and 28** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that

Art Unit: 3627

the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims introduce **“motorized”** product moving machine which is not supported in the original disclosure. Appropriate correction is required.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. **Claim 36** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. **Claim 36** recites ***“configured to provide an alert if an item placed on the pallet that is not contained in the picklist.”*** The terminology is unclear. The Examiner is interpreting this to mean ***“configured to provide an alert if an item not on the picklist is placed on the pallet”***. Correction is required.

Claim Rejections - 35 USC § 103

12. **Claims 1-11, 13-21, 24 and 26-39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al., US 6,837,436 B2 henceforth known as Swartz.

Claims 1, 24, 26, and 38-39:

With regard to the limitations for an order filling system:

- ***A product carrying device (shopping cart, forklift and pallet).***
- ***A shopping list (picklist) and means for receiving and storing a list from an external computer.***
- ***Means for updating list based on items placed on cart.***

Swartz in at least Column 2, lines 12-21 discloses a portable shopping and order fulfillment system retrieving associated data files stored at remote addresses through a wireless communication network and storing the list on the portable terminal (Swartz, Column 7, lines 50-51). Swartz in at least Column 2, lines 41-53 further discloses that an authorized user may remotely or locally access the order system to create a shopping list for items that the user may pickup individually at the store or the shopping list may be used to collect the items for delivery.

Art Unit: 3627

Swartz in at least Column 2, lines 54-60 still further discloses that when the items are collected, either by the customer or an attendant, the collector is provided with a portable hand-held terminal which displays the list of items to be collected. The portable terminal is in communication with a central host and may have a machine code reader to assist in recording selected items from the list. Swartz in at least Column 6, lines 20-23 discloses that the portable terminal may be a hand-held device or it may be permanently mounted or mounted in a manner that the portable terminal is removable from a shopping cart or other device designed to carry products selected by a user.

- ***Electronically displaying a route within the store to obtain items on the list.***

Swartz in at least Column 40, lines 60-67 and Column 41, lines 1-7 discloses that the portable terminal includes a graphical user interface that simulates a store layout, i.e., aisles with items in them as they are stacked within the store permitting customer, store employees and other personnel who stock the shelves to use the graphical user interface to locate the correct location for the items.

Claims 2-4, 27-28, and 37:

With regard to the limitations:

- ***Receiving a radio frequency (RF) signal from an item's tag.***

Swartz in at least Column 2, lines 21-25 discloses an item being identified by a portable terminal. Swartz in at least Column 4, lines 58-67 further discloses that the portable terminal's machine code reader can be a bar code reader, a radio frequency tag reader, a CCD or CMOS imager or any other type of machine code reader which can decode encoded indicia on an article and/or collect data by means of optical, radio, or other means.

Claims 7, 21, 29-31, 33, and 34-35:

With regard to the limitations:

- ***Updating the display device to reflect the quantity remaining to fill an order***
- ***Description of each item is on the shopping list (picklist).***

- ***Portable terminal has a user interface to change information displayed in response to user input.***

Swartz does not specifically disclose the display device being updated to reflect the current quantity or the quantity remaining to fill an order per se. However, Swartz in at least Column 17, lines 18-29 discloses records related to a particular customer on a particular date indicating the total quantity of items that the customer purchased and a chronological list of the order that each item was selected and purchased. Swartz in at least Column 20, lines 28-40 further discloses that the portable terminal is provided with activation buttons allowing the user to perform various functions like adding an item selected by the consumer to a list of purchased items, a key to remove a previously selected item from the purchase list, a key to perform a price check or other information check and a key to display the total cost of the items selected for purchase.

Swartz in at least Column 5, lines 49-53, and Column 7, lines 37-67 further discloses that the portable terminal has a display device that can function as a video display and a data input device. The portable terminal has several input devices including an optical character scanner and memory for storing an electronic shopping list, past purchasing history and/or coupons and location tracking features. Swartz in at least Column 20, lines 18-27 further discloses the portable terminal displaying product information such as price, product name, quantity and nutritional information.

Claims 8-10, 13 and 32:

With regard to the limitations:

- ***Indication of next item in the list and the location of that item.***

Swartz in at least Column 40, lines 62-67 discloses the portable terminal with a graphical user interface that simulates a store layout, i.e., aisles with items in them as they are stacked within the store permitting the user to find items within the store. Swartz in at least Column 41, lines 8-14 discloses that the shopping system can assist a customer in finding items on the customer's shopping list by blinking on the display the location of the items.

Claim 11:

With regard to the limitations:

- ***Handling instructions can be received at the display.***
- ***Loading pattern instruction can be received at the display.***

Swartz in at least Column 2, lines 59-67 discloses the portable terminal being provided with item-related information such as delivery instructions and packing requests and in at least Column 3, lines 9-14 illustrative help and instructional files associated with the selected item. Therefore, it would be obvious, at the time of the invention, for one of ordinary skill to modify Swartz's instructions regarding the selected item with a feature to provide information with respect to handling and loading and/or packing with the motivation to provide the customer and the person stocking or picking the shelves with information regarding the proper and safe way to handle the item

Claim 14:

With regard to the limitation:

- ***Querying the operator about additional items not on the list.***

Swartz in at least Column 40, lines 13-23 discloses a customer being provided promotions for items which compete with an item on the list. Swartz in at least Column 38, lines 2-6 further discloses that a customer may receive messages offering discounts for items not on the shopper's list. Swartz in at least Column 34, lines 28-40 discloses sending messages to customers about products as the customer approaches a product or a specific section of the store.

Claims 15-17 and 36:

With regard to the limitations:

- ***Determining if a detected item is or is not on the list or is in a different format.***
- ***Adding the detected item to the shopping list.***
- ***Alerting user that item detected item is not on the list.***

Art Unit: 3627

Swartz in at least Column 40, lines 23-34 discloses notifying the customer that an item detected is not on the shopping list, is of a different size or format, or is a competing product. Swartz does not specifically disclose that the shopping list is updated on the display with any item detected that's not on the shopping list per se. However, Swartz in at least Column 17, lines 18-29 discloses records related to a particular customer on a particular date indicating the total quantity of items that the customer purchased and a chronological list of the order that each item was selected and purchased. Swartz in at least Column 20, lines 28-40 further discloses that the portable terminal is provided with activation buttons allowing the user to perform various functions like adding an item selected by the consumer to a list of purchased items, a key to remove a previously selected item from the purchase list, a key to perform a price check or other information check and a key to display the total cost of the items selected for purchase.

Claims 18 and 19:

With regard to the following limitations:

- ***Accessing additional data about an item.***
- ***Display device provides access to additional data.***

Swartz in at least Column 5, lines 64-67, and Column 6, lines 1-3 discloses that the portable terminal previously disclosed includes a key for a customer to indicate that they would like additional information about an item (recipe, nutritional, etc.).

Claim 20:

With regard to the limitation:

- ***Directing a shopper or order filler to a checkout area on fulfilling an order.***

Swartz in at least Column 43, lines 55-58 discloses a customer receiving on the portable terminal a notification that an order has been fulfilled or is about to be fulfilled. Swartz in Column 44, lines 6-32 further discloses a customer checking into a checkout queue and a customer being assigned a "window" or an order on the queue wherein the customer can proceed to the checkout counter. The customer's order on the queue may be determined by the order of their signing onto the queue, number and/or type of products and other factors.

Art Unit: 3627

Claims 5-6:

With regard to the limitation:

- ***Shopping list includes the desired quantity for each item.***

Swartz in at least Column 20, lines 18-27 further discloses the portable terminal displaying product information such as price, product name, quantity and nutritional information.

13. **Claims 22 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al., US 6,837,436 B2 as applied to the claims above, and further in view of Spriestersbach et al., US 7,020,494 B2 hereafter known as Spriestersbach.

Claim 22:

With regard to the limitation for an order filling system:

- ***A first computer system;***
- ***A picklist of order items;***
- ***A motorized product moving machine with a reader connected to the first computer system;***
- ***A display device on the product moving machine for displaying the picklist;***
- ***Picklist is generated at the first computer system and transmitted to the first reader on the product moving machine;***

Swartz in at least Column 2, lines 12-21 discloses a portable shopping and order fulfillment system retrieving associated data files stored at remote addresses through a wireless communication network and storing the list on the portable terminal (Swartz, Column 7, lines 37-51) which has a processor and memory. Swartz in at least Column 2, lines 41-53 further discloses that an authorized user may remotely or locally access the order system to create a shopping list for items that the user may pickup individually at the store or the shopping list may be used to collect the items for delivery. Swartz in at least Column 2, lines 54-60 still further discloses that when the items are collected, either by the customer or an attendant, the collector is provided with a portable hand-held terminal which displays the list of items to be collected. The

Art Unit: 3627

portable terminal is in communication with a central host and may have a machine code reader to assist in recording selected items from the list. Swartz in at least Column 6, lines 20-23 discloses that the portable terminal may be a hand-held device or it may be permanently mounted or mounted in a manner that the portable terminal is removable from a shopping cart or other device designed to carry products selected by a user.

- **A pallet having an identification tag readable by the first reader and associated to the order.**

Swartz does not specifically disclose a pallet having an identification tag per se; however Swartz in at least Column 3, lines 42-47 discloses a portable terminal with a unique address on the system. Swartz in at least Column 7, lines 4-21 discloses that the portable terminal is able to communicate with the central host through a wireless device. Swartz in at least Column 9, lines 22-67 further discloses that the portable terminal communicates with hosts and other components linked to a wide area network using Ethernet and IP addresses. Swartz in at least Column 11, lines 54-62 further discloses that to enable personalized communication between the host computer and the portable terminal the host must be able to identify the customer. The customer may enter a personal identification code or a personal identification code stored in the portable device may be transmitted to the host computer. Swartz in at least Column 11, lines 63-67 and Column 12, lines 1-21 discloses that personalized messages could be displayed on the portable terminal based on the customer's profile and/or on the profile of the products selected by the customer. Swartz in at least Column 19, lines 63-67, and Column 20, lines 1-27 discloses that the portable terminal could have a unique identification code associated with the portable terminal and ultimately associated with the customer.

Spiestersbach in at least Column 12, lines 39-50 and lines 51-67 discloses attaching an RFID tag to each pallet, as well as a tag reader and a location-aware computer system to each forklift to take advantage of location context information. Therefore, it would have been obvious, at the time of the invention, to one of ordinary skill to combine Swartz's consumer interactive shopping

Art Unit: 3627

system with the location-aware pallet and forklift system with the motivation of having not only the contents of the pallet, but also its location available to interested parties.

Claim 25:

With regard to the limitation:

- ***The product moving machine is a forklift.***

Spriestersbach in at least Column 12, lines 39-50 discloses attaching an RFID tag to each pallet, as well as a tag reader and a location-aware computer system to each forklift to take advantage of location context information.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL DANNEMAN whose telephone number is (571)270-1863. The examiner can normally be reached on Mon.-Thurs. 6AM-5PM Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul Danneman/

Examiner, Art Unit 3627

16 November 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627